

IN THE SUPREME COURT OF THE STATE OF NEVADA

COREY JAMES MALCOLM PEARCE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59954

FILED

JUL 25 2012

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Angou*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Valerie Adair, Judge.


Appellant filed a timely petition on July 11, 2011. We conclude that the district court erred in denying the petition without appointing counsel for the reasons discussed below.

NRS 34.750 provides for the discretionary appointment of post-conviction counsel and sets forth the following factors which the court may consider in making its determination to appoint counsel: the petitioner's indigency, the severity of the consequences to the petitioner, the difficulty of those issues presented, whether the petitioner is unable to comprehend the proceedings, and whether counsel is necessary to proceed with discovery.


¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Appellant's petition arose out of a capital murder trial with potentially complex issues and issues that may require further factual development outside the record. Appellant was represented by appointed counsel at trial. Appellant is serving a significant sentence—two consecutive terms of life without the possibility of parole and two consecutive terms of 72 to 180 months. In addition, appellant moved for the appointment of counsel and claimed that he was indigent. The failure to appoint post-conviction counsel prevented a meaningful litigation of the petition. Thus, we reverse the district court's denial of appellant's petition and remand this matter for the appointment of counsel to assist appellant in the post-conviction proceedings. Accordingly, we

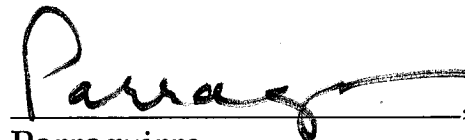
ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

 _____, J.

Douglas

 _____, J.

Gibbons

 _____, J.

Parraguirre

cc: Hon. Valerie Adair, District Judge
Corey James Malcolm Pearce
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk